

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER 01-0157
INCOME TAX

For Tax Period: 1997 Through 1999

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Issue

Income Tax-Discharge in Bankruptcy

Authority: 11 USC 507, IC 6-3-2-1 and IC 6-8.1-5-1 (b).

The taxpayers contend that their income tax liability was discharged in bankruptcy .

Statement of Facts

The taxpayers are a married couple. After an audit of a business that the taxpayers operated as a sole proprietorship, the taxpayers were assessed additional adjusted gross income tax, interest and penalty. The taxpayers protested the assessment and a hearing was held. Additional facts will be provided as necessary.

Income Tax-Discharge in Bankruptcy

Discussion

An adjusted gross income tax is imposed upon all Indiana residents. IC 6-3-2-1. Assessments by the Indiana Department of Revenue are presumed to be correct. The taxpayers bear the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b). Since they did not offer any evidence that the assessment was incorrect, the taxpayers did not sustain their burden.

The taxpayers contend that they discharged their adjusted gross income tax liability in their bankruptcy proceeding. Pursuant to 11 USC 507, state adjusted gross income taxes are dischargeable in bankruptcy if the proceedings are filed more than three years after the due date of the taxes. The tax periods at issue are 1997, 1998 and 1999. These taxes would be due to Indiana on April 15, 1998, April 15, 1999 and April 15, 2000 respectively. The taxpayers filed their bankruptcy action on February 6, 2001. None of the tax liabilities at issue were three years old at the time of the filing of the bankruptcy action. Therefore, these tax liabilities were not discharged by the United States Bankruptcy Court, Southern District of Indiana.

Finding

The taxpayers' protest is denied.